

AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
-------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 09-03449 MEJ	DATE FILED 7/27/09	U.S. DISTRICT COURT Northern District of California, San Francisco Division
PLAINTIFF JUNIPER NETWORKS, INC..		DEFENDANT ALTITUDE CAPITAL PARTNERS, L.P.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,119,236		
2 6,304,975^{B2}		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wicking	(BY) DEPUTY CLERK Gloria Acevedo	DATE August 6, 2009
------------------------------------	--------------------------------------------	-------------------------------

Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

E-filing

ORIGINAL
FILED

JUL 27 2009

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

1 IRELL & MANELLA LLP
 2 Morgan Chu (70446) (mchu@irell.com)
 3 Jonathan S. Kagan (166039) (jkagan@irell.com)
 4 1800 Avenue of the Stars, Suite 900
 5 Los Angeles, California 90067-4276
 6 Telephone: (310) 277-1010
 7 Facsimile: (310) 203-7199
 8
 9 David C. McPhie (231520) (dmcphie@irell.com)
 10 Rebecca L. Clifford (254105) (rclifford@irell.com)
 11 840 Newport Center Drive, Suite 400
 12 Newport Beach, California 92660-6324
 13 Telephone: (949) 760-0991
 14 Facsimile: (949) 760-5200
 15
 16 Attorneys for Plaintiff
 17 Juniper Networks, Inc.

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12

13 JUNIPER NETWORKS, INC., a
 14 Delaware corporation,
 15 Plaintiff,

16 vs.

17 ALTITUDE CAPITAL PARTNERS,
 18 L.P., a Delaware limited partnership,
 19 and SECURITY RESEARCH
 20 HOLDINGS LLC, a Delaware limited
 21 liability company,
 22 Defendants.

Case No.

C09-03449

COMPLAINT FOR
 DECLARATORY JUDGMENT
 DEMAND FOR JURY TRIAL

23 Plaintiff Juniper Networks, Inc. ("Juniper") alleges as follows:

24 PARTIES

25 1. Plaintiff Juniper is a corporation duly organized and existing under the
 26 laws of the State of Delaware, and has its principal place of business at 1194 North
 27 Mathilda Avenue, Sunnyvale, California 94089.
 28

COMPLAINT FOR DECLARATORY JUDGMENT

1 2. On information and belief, Defendant Altitude Capital Partners, L.P.
2 ("Altitude") is a limited partnership organized and existing under the laws of the
3 State of Delaware, and has a principal place of business at 485 Madison Avenue,
4 Suite 2300, New York, NY 10022.

5 3. On information and belief, Defendant Security Research Holdings LLC
6 ("SRH") is a limited liability company organized and existing under the laws of the
7 State of Delaware, and has a principal place of business at 485 Madison Avenue,
8 Suite 2300, New York, NY 10022.

9 **JURISDICTION**

10 4. This action arises under the patent laws of the United States of
11 America, 35 U.S.C. § 1 *et seq.*, and under the Declaratory Judgment Act, 28 U.S.C.
12 §§ 2201 and 2202. This Court has subject matter jurisdiction under 28 U.S.C. §§
13 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the
14 United States of America. This Court also has subject matter jurisdiction under 28
15 U.S.C. § 2201 because, as shown below, a substantial controversy exists between
16 Juniper and Altitude and SRH regarding patent non-infringement, invalidity, and
17 unenforceability.

18 5. This Court has personal jurisdiction over Altitude and SRH because
19 they have engaged in numerous contacts and business dealings within the State of
20 California (including in relation to their acquisition of rights to the patents-in-suit)
21 and have participated in the bringing of patent infringement claims against Juniper,
22 a California resident.

23 **VENUE**

24 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and
25 (c) and 1400(b), because a substantial part of the events giving rise to Juniper's
26 claims occurred in this district.

27
28

INTRADISTRICT ASSIGNMENT

7. Pursuant to Civil Local Rule 3-2(c), because this action is an intellectual property action, it is properly assigned to any of the divisions in this district.

GENERAL ALLEGATIONS

8. Juniper designs, develops, markets, and sells a wide variety of network security products, and intends to continue designing, developing, marketing, and selling these products.

9. On information and belief, SRH is owner of all substantial rights to United States Patent Nos. 6,119,236 ("the '236 Patent"), which is titled "Intelligent Network Security Device and Method," and names Peter M. Shipley as the inventor.

10. On information and belief, SRH is owner of all substantial rights to United States Patent No. 6,304,975 B1 ("the '975 Patent"), which is titled "Intelligent Network Security Device and Method," and names Peter M. Shipley as the inventor. (The '236 and '975 Patents will collectively be referred to herein as the "patents-in-suit.")

11. On information and belief, SRH was created for the sole purpose of purchasing rights to the patents-in-suit from a company called Enhanced Security Research, LLC ("ESR").

12. On information and belief, SRH is owned and controlled by Altitude, and is Altitude's alter ego. Altitude is in the business of purchasing and investing in patent portfolios that are monetized by suing other companies for patent infringement.

13. On November 2, 2007, ESR (a purported predecessor-in-interest to the patents-in-suit) brought a complaint for patent infringement against Juniper in the United States District Court for the Eastern District of Texas alleging that certain Juniper network security products infringe the patents-in-suit.

1 14. On information and belief, in late 2008 or early 2009, Altitude and
2 SRH negotiated with ESR to obtain all substantial rights to the patents-in-suit via a
3 "Purchase Agreement."

4 15. On July 17, 2009, the Texas case was dismissed by the Texas court
5 because ESR lacked standing to bring the suit.

6 16. On May 18, 2009, ESR filed another complaint for patent infringement
7 against Juniper in the United States District Court for the Eastern District of Texas.
8 This case will also likely be dismissed for lack of subject matter jurisdiction,
9 because ESR does not currently have standing to assert the patents-in-suit.

10 17. On information and belief, Juniper believes that Altitude and SRH
11 (collectively, "Defendants") plan to themselves assert in the immediate future that
12 Juniper's network security products infringe the patents-in-suit. Therefore, a
13 substantial controversy of sufficient immediacy and reality exists between Juniper
14 and Defendants as to whether any of Juniper's products infringe any valid and
15 enforceable claims of any of the patents-in-suit to warrant the issuance of a
16 declaratory judgment.

17 18. Juniper desires a judicial determination of the foregoing controversy
18 and a declaration by the Court of the parties' respective rights.

19 **FIRST CAUSE OF ACTION**

20 **(Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,119,236)**

21 19. Juniper incorporates by reference paragraphs 1-18 of this Complaint
22 and re-alleges them as though fully set forth herein.

23 20. Based on Defendants' actions, Juniper's past and current conduct, and
24 Juniper's future plans, all as described above, a substantial controversy has arisen
25 between Juniper and Defendants concerning whether Juniper has infringed or does
26 infringe any valid and enforceable claim, properly construed, of the '236 Patent, and
27 whether Juniper is liable for the purported infringement of any such claim, either
28

1 literally or under the doctrine of equivalents, and whether based on a theory of direct
2 infringement, contributory infringement, or infringement by inducement.

3 21. Juniper does not infringe, and has never infringed, any valid and
4 enforceable claim, properly construed, of the '236 Patent, and is not liable for the
5 purported infringement of any such claim, either literally or under the doctrine of
6 equivalents, and whether based on a theory of direct infringement, contributory
7 infringement, or infringement by inducement.

8 22. A judicial declaration that Juniper does not infringe any valid and
9 enforceable claim of the '236 Patent is necessary and appropriate at this time so that
10 Juniper can ascertain its rights and duties with respect to designing, developing,
11 marketing, and selling networking products.

12 SECOND CAUSE OF ACTION

13 (Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,304,975 B1)

14 23. Juniper incorporates by reference paragraphs 1-18 of this Complaint
15 and re-alleges them as though fully set forth herein.

16 24. Based on Defendants' actions, Juniper's past and current conduct, and
17 Juniper's future plans, all as described above, a substantial controversy has arisen
18 between Juniper and Defendants concerning whether Juniper has infringed or does
19 infringe any valid and enforceable claim, properly construed, of the '975 Patent, and
20 whether Juniper is liable for the purported infringement of any such claim, either
21 literally or under the doctrine of equivalents, and whether based on a theory of direct
22 infringement, contributory infringement, or infringement by inducement.

23 25. Juniper does not infringe, and has never infringed, any valid and
24 enforceable claim, properly construed, of the '975 Patent, and is not liable for the
25 purported infringement of any such claim, either literally or under the doctrine of
26 equivalents, and whether based on a theory of direct infringement, contributory
27 infringement, or infringement by inducement.

28

COMPLAINT FOR DECLARATORY JUDGMENT

1 26. A judicial declaration that Juniper does not infringe any valid and
2 enforceable claim of the '975 Patent is necessary and appropriate at this time so that
3 Juniper can ascertain its rights and duties with respect to designing, developing,
4 marketing, and selling networking products.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Juniper prays for judgment as follows:

7 A. For a judicial determination that Juniper is not infringing, and has not
8 infringed, any valid and enforceable claims of the '236 or '975 Patents;

9 B. For a judicial determination, pursuant to 35 U.S.C. § 285, that this case
10 is exceptional and that Juniper be awarded its reasonable attorneys' fees and costs;
11 and

12 C. For such other and further relief as this Court deems just and proper.

13 Dated: July 27, 2009

IRELL & MANELLA LLP

14
15 By: 

16 Jonathan S. Kagan
17 Attorneys for Plaintiff
18 Juniper Networks, Inc.
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Juniper Networks, Inc. hereby demands a trial by jury on all issues triable to a jury.

Dated: July 27, 2009

IRELL & MANELLA LLP

By: 

Jonathan S. Kagan
Attorneys for Plaintiff
Juniper Networks, Inc.